

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

STEPHEN R.J. KERN, JR.,

Petitioner,

vs.

STROUD, *et al.*,

Respondents.

Case No. 2:13-cv-02227-RFB-NJK

ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. On April 28, 2014, the court ordered that plaintiff's excessive force claim shall proceed and dismissed his remaining claims with leave to amend (#2). On June 17, 2014, plaintiff filed an amended complaint (#7). In the amended complaint, plaintiff did not include his excessive force claim, but only indicated that "count 1 excessive force claim remains before the court against defendant Jason Henry" (#7, p. 4). However, this is impermissible. Plaintiff is reminded that the court cannot refer to a prior pleading in order to make plaintiff's amended complaint complete. Local Rule 15-1 requires that an amended complaint be complete in itself without reference to any prior pleading. This is because, as a general rule, an amended complaint supersedes the original complaint. *See Loux v. Rhay*, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no longer serves any function in the case. Therefore, in an amended complaint, as in an original complaint, each claim and the involvement of each defendant must be sufficiently alleged.

1 Here, plaintiff will be given a final opportunity to file an amended complaint. His
2 amended complaint must contain each and every claim that he wishes to assert, that is, he must include
3 the allegations regarding his excessive force claim, in full, as well as the Eighth Amendment allegations
4 related to outside exercise and medical care that he included in the amended complaint he filed at
5 docket #7.

6 **IT IS THEREFORE ORDERED** that, within **thirty (30) days** of the date of this order,
7 plaintiff SHALL FILE a second amended complaint, in which he sets forth each and every constitutional
8 claim against each and every defendant. The amended complaint must be a complete document in and
9 of itself, and will supersede the original complaint in its entirety. Any allegations, parties, or requests
10 for relief from prior papers that are not carried forward in the amended complaint will no longer be
11 before the court.

12 **IT IS FURTHER ORDERED** that plaintiff shall clearly title the amended complaint
13 as such by placing the words "SECOND AMENDED" immediately above "Civil Rights Complaint
14 Pursuant to 42 U.S.C. § 1983" on page 1 in the caption, and plaintiff shall place the case number, **2:13-**
15 **CV-02227-RFB-NJK**, above the words "SECOND AMENDED" in the space for "Case No."

16 **IT IS FURTHER ORDERED** that plaintiff is expressly cautioned that if he does not
17 timely file a second amended complaint in compliance with this order, the court will screen the first
18 amended complaint at docket #7.

19 **IT IS FURTHER ORDERED** that the Clerk shall send to plaintiff a blank section 1983
20 civil rights complaint form with instructions along with one copy of the first amended complaint (#7).

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22 DATED this 20th day of October, 2014.

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24 
25 NANCY J. KOPPE
26 UNITED STATES MAGISTRATE JUDGE
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